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FISCAL IMPACT STATEMENT

LS 6253

BILL NUMBER: HB 1402

NOTE PREPARED: Nov 18, 2002

BILL AMENDED:

SUBJECT: Reduction or Suspension of Sentences.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill allows a court to modify a defendant's sentence without the approval of a prosecuting attorney and place the defendant in a community corrections program: (1) if, when sentencing the defendant, the court could have placed the defendant in a community corrections program as an alternative to commitment to the Department of Correction; and (2) regardless of when the original sentencing hearing was conducted.

Effective Date: July 1, 2003.

Explanation of State Expenditures: Depending on the actions of the sentencing courts, this bill could reduce the number of offenders who are in Department of Correction (DOC) facilities and transfer them to community corrections programs.

Background: P.L. 291-2001 allowed the court to modify an offender's sentence to place the defendant in a community corrections program without the approval of the prosecuting attorney. P.L. 291-2001 applied to offenders who were sentenced after June 30, 2001. Under this bill, the sentencing court would be permitted to place any offender, including those sentenced before June 30, 2001, in a community correction program if they were eligible for placement at the time. Note: Staff in community corrections programs in Marion and Grant Counties reported that this portion of the statute has been rarely cited as the basis for requesting a sentence modification since this law was enacted.

Some offenders are specifically restricted from being placed in community corrections. These are persons who have been incarcerated for the following offenses:

- murder (IC 35-42-1-1);
- battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
- sexual battery (IC 35-42-4-8) with a deadly weapon;
- kidnapping (IC 35-42-3-2);
- confinement (IC 35-42-3-3) with a deadly weapon;
- rape (IC 35-42-4-1) as a Class A felony;
- criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
- child molesting (IC 35-42-4-3) as a Class A or Class B felony;
- robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
- escape (IC 35-44-3-5) with a deadly weapon;
- rioting (IC 35-45-1-2) with a deadly weapon;
- dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) or a schedule I, II, or III controlled substance (IC 35-48-4-2) in certain circumstances;
- operating a vehicle while intoxicated, and the person who committed the offense has accumulated at least two prior unrelated convictions (IC 9-30-5);
- aggravated battery (IC 35-42-2-1.5);
- sex crimes (IC 35-42-4); or
- crimes of incest (IC 35-46-1-3).

Offenders who are eligible for direct placement in community corrections programs are non-violent offenders sentenced to a term of four years or less and Class A misdemeanants.

Any fiscal effects from this bill will depend on the number of offenders that the sentencing court would place in community corrections and the availability of community corrections programs across the state. As of December 31, 2001, 15,799 offenders were served by community corrections programs in 64 counties.

The average expenditure to house an adult offender in DOC facilities was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. The average annual cost for placing an offender in a community correction program is \$1,288 (*adult program expenditures in FY 2002 of \$20,343,670 ÷ 15,799 adult offenders being served as of December 31, 2001*).

Explanation of State Revenues:

Explanation of Local Expenditures: The 64 counties with community corrections programs could have more offenders transferred to them from the Department of Correction. Whether these transfers would occur would depend on decisions made by the courts which sentenced these offenders. The Department of Correction reported that community corrections programs received 359 offenders due to sentence modifications during the period between June 1 and December 31, 2001.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction

Local Agencies Affected: Trial Courts, Community Corrections Programs, staff in community corrections programs in Grant and Marion Counties

Information Sources: Department of Correction

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